

## ORDINANCE NO. 317-08

BY: **MARY GALINAS**  
(By Request – Safety Director)

AN ORDINANCE TO ENACT SECTION 313.035 *“USE OF AUTOMATED CAMERAS TO IMPOSE CIVIL PENALTIES UPON SPEEDING VIOLATORS IN ANY SCHOOL ZONE”* OF CHAPTER 313 *“TRAFFIC CONTROL DEVICES”* OF THE CODIFIED ORDINANCES OF THE CITY OF PARMA, AND DECLARING AN EMERGENCY

WHEREAS, the City Council (hereinafter referred to as “Council”) has enacted definitions and regulations regarding speed limits in all school zones located in the City; and,

WHEREAS, Council has not previously regulated violations of speed limits in school zones in conjunction with the use of an automated traffic enforcement camera system to impose civil penalties upon those persons who exceed the maximum speed limit in any school zone located in the City; and,

WHEREAS, Council believes that the use of automated cameras to impose civil penalties upon speed violators in school zones will enhance the safety of children during school recess and while going to or leaving school during the opening and closing hours of the school;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PARMA, COUNTY OF CUYAHOGA AND STATE OF OHIO:

Section 1. That Section 313.035 of the Codified Ordinances of the City of Parma is hereby enacted to read as follows:

**“313.035 USE OF AUTOMATED CAMERAS TO IMPOSE CIVIL PENALTIES UPON SPEEDING VIOLATORS IN ANY SCHOOL ZONE.**

**(a) Definitions. As used in this Section:**

(1) **“Automated Traffic Enforcement Camera System”** means an electronic system consisting of a photographic, video, or electronic camera and a vehicle sensor installed to work alone or in conjunction with an official traffic controller and to automatically produce photographs, video, or digital images of each vehicle violating a standard traffic control.

(2) **“Vehicle Owner”** is the person or entity identified by the Ohio Bureau of Motor Vehicles, or registered with any other state vehicle registration office, as the registered owner of a vehicle.

**(b) Civil Enforcement System Established.**

(1) **General.** The City of Parma hereby adopts a civil enforcement system for school zone speed limit violators photographed by means of an “automated traffic enforcement camera system” as defined in division (a) of this Section. This civil enforcement system imposes monetary liability on the owner of a vehicle for failure of an operator to comply with the maximum speed limitation in any school zone in the City.

**(2) Notice to the Public.**

A. The Director of Safety for the City shall cause the general public to be notified by means of a press release issued at least thirty (30) days before any given camera is made fully-operational and is used to issue tickets to offenders. Before a given camera issues actual tickets, there shall be a period of at least two (2) weeks, which may run concurrently with the 30-day public-notice period, during which only "warning" notices shall be issued.

B. At each location of an automated camera, the Service Director for the City shall cause signs to be posted to apprise ordinarily observant motorists that they are approaching an area where an automated camera is monitoring for drivers exceeding the maximum speed limit in any City school zone.

**(3) Selection of Camera Sites.** The selection of the sites where automated cameras are placed and the enforcement of this ordinance shall be made on the basis of sound professional traffic engineering and law enforcement judgments. Automated cameras shall not be placed at any site where the speed restrictions or the timing of the traffic signal fail to conform to sound professional traffic engineering principles.

**(4) Locations.** The following are the locations for the Automated Traffic Enforcement Camera System in the City of Parma:

- A. Bethany Christian – 6195 Broadview Road
- B. Bethany Lutheran – 6041 Ridge Road
- C. Bethel Christian Academy – 12901 West Pleasant Valley Road
- D. Dag Hammarskjold Elementary – 4040 Tamarack Drive
- E. Dentzler Elementary – 3600 Dentzler Road
- F. Green Valley Elementary – 2401 West Pleasant Valley Road
- G. Greenbriar Elementary – 11810 Huffman Road
- H. Holy Family – 7367 York Road
- I. James Hanna Elementary – 11212 Snow Road
- J. John Muir Elementary – 5531 West 24<sup>th</sup> Street
- K. Normandy High School – 2500 West Pleasant Valley Road
- L. Padua Franciscan High School – 6740 State Road
- M. Parkview Elementary – 5210 Loya Parkway
- N. Parma Senior High School – 6285 West 54th Street
- O. Pleasant Valley Elementary – 9906 Pleasant Valley Road
- P. Pleasantview Elementary – 7700 Malibu Drive
- Q. Renwood Elementary – 8020 Deerfield Drive
- R. Ridge-Brook Elementary – 7915 Manhattan Drive
- S. Shiloh Junior High School – 2303 Grantwood Drive
- T. St. Anthony of Padua – 6800 State Road
- U. St. Bridget – 5620 Hauserman Road
- V. St. Charles – 7107 Wilber Avenue
- W. St. Columbkille – 6740 Broadview Road
- X. St. Francis de Sales – 3421 Snow Road
- Y. St. Josaphat – 5720 State Road
- Z. State Road Elementary – 6121 State Road
- AA. Thoreau Park Elementary – 5401 West 54<sup>th</sup> Street
- BB. Any area used as a school zone not named herein

**(5) Notices of Liability.** Any ticket for an automated speeding system violation under this Section shall:

**A. Be reviewed by a Parma police officer;**

**B. Be forwarded by first-class mail or personal service to the vehicle's registered owner's address as given on the state's motor vehicle registration; and**

**C. Clearly state the manner in which the violation may be appealed.**

**(6) Program Oversight.** The Director of Public Safety of the City shall oversee the program authorized by this Section. The Service Director of the City shall oversee the installation and maintenance of all automated cameras and speed detection devices by the vendor.

**(7) Rules and Regulations.** The Director of Public Safety may issue rules and regulations to carry out the provisions of these Sections, which shall be effective thirty (30) days after being posted at the Parma Council office. The rules and regulations may also be published on the City website and kept on file with the Safety Director.

**(c) Offense.**

**(1) Speeding Offense – Liability Imposed.** The owner of a vehicle shall be liable for the penalty imposed under this Section if the vehicle is operated at a speed in excess of the limitations set forth in Section 333.03 of the Parma Codified Ordinances.

**(2) Liability Does Not Constitute a Conviction.** The imposition of liability under this Section shall not be deemed a conviction for any purpose and shall not be made part of the operating record of any person on whom the liability is imposed.

**(3) Other Offenses and Penalties Not Abrogated.** Nothing in this Section shall be construed as altering or limiting Sections 333.03 or 313.03 of the Parma Codified Ordinances, the criminal penalties imposed by those Sections, or the ability of a police officer to enforce those Sections against any offender observed by the officer violating either of those Sections. Nothing in this Section shall be construed to limit the liability of an operator of a vehicle for any violation of division (c)(1) of this Section.

**(4) Evidence of Ownership.** It is prima facie evidence that the person registered as the owner of the vehicle with the Ohio Bureau of Motor Vehicles, or with any other State vehicle registration office, was operating the vehicle at the time of the offense set out in division (c)(1) of this Section.

**(5) Establishment of Penalty.** The penalty imposed for a violation of division (c)(1) of this Section shall be as follows:

**(1) Up to 9 m.p.h. over the speed limit = \$100.00;**

**(2) 10 m.p.h. or more over the speed limit = \$200.00.**

**(6) Late Payments.** If the amount of the penalty is not paid within thirty (30) days from the date of mailing of the ticket to the offender, an additional \$20.00 shall be imposed. If the amount of the penalty and the additional \$20.00 is not paid within thirty (30) days from the date of mailing of the ticket to the offender,

**\$40.00 shall be imposed, for a total additional penalty amount of \$60.00 in such a case.**

**(7) Collection.** If the vehicle owner or operator fails to pay the civil notice within the period set forth in Section 313.035(c)(6) the penalty along with the additional late fee(s) shall be collected by civil suit or other appropriate means of collection.

**(d) Penalty and Administrative Appeal.**

**(1) Penalty.** Any violation of division (c)(1) of this Section shall be deemed a non-criminal violation for which a civil penalty shall be assessed and for which no points shall be assigned to the owner or driver of the vehicle under O.R.C. 4507.021.

**(2) Appeals.**

**A.** A person who received a Notice of Liability pursuant to 313.035(b)(5) may appeal the Notice of Liability within twenty-one (21) days from the date of the Notice of Liability by making a written request for a hearing to the address listed on the Notice of Liability. Said request shall be accompanied by a monetary deposit in an amount equal to the amount of the administrative fine listed on the Notice of Liability.

**B.** Within thirty (30) days of the receipt of the request for a hearing, a hearing shall be held before a Hearing Officer appointed by the Mayor. The Hearing Officer shall determine whether the City has demonstrated by a preponderance of the evidence that a violation occurred and that the person who received the Notice of Liability is liable for the penalty set forth in 313.035(c)(5).

**C.** A certified copy of the Notice of Liability alleging the violation, along with a copy of the image that served as a basis for the Notice of Liability, shall be prima facie evidence of the facts contained therein, and shall be admissible in a proceeding alleging a violation under this Section.

**D.** In considering whether the person is liable, the Hearing Officer may consider any of the following as an affirmative defense of a violation:

**(i).** That the Notice of Liability was issued and sent by first class mail more than thirty (30) days after the date of the violation recorded by the Automated Traffic Enforcement Camera System.

**(ii).** That the driver of the vehicle increased speed in order to yield the right of way to an emergency vehicle in accordance with R.C. 4511.

**(iii).** That either the vehicle or license plate depicted on the image, which served as the basis for the Notice of Liability, was stolen before the violation occurred and was not in possession of the owner at the time of the violation. To qualify as an affirmative defense under this provision, the owner must submit proof that a police report about the stolen vehicle or license plate was filed prior to or within 48 hours after the violation.

**(iv).** That this section is unenforceable because the Automated Traffic Enforcement Camera System was not operating properly, or

**the Automated Traffic Enforcement Camera System was not in a proper position, or that the image that served as the basis for the Notice of Liability is not legible enough to show the letters and numbers or the state that issued the license plate on the vehicle.**

**(v). That the driver of the vehicle is directed by a police officer on the scene to exceed the speed limit.**

**(vi). Substantial and convincing evidence that the owner or person named in the Notice of Liability was not operating the vehicle at the time of the violation. To satisfy the evidentiary burden under this provision, the owner or person named in the Notice of Liability shall provide the Hearing Officer with substantial and convincing evidence of the identity of the person who was operating the vehicle at the time of the violation, including, at a minimum, the operator's name and current address.**

**E. The Hearing Officer shall issue a written decision within ten (10) days of the hearing and serve the person named on the Notice of Liability and the Chief of Police or his or her designee with a copy of said decision. In addition, if the Hearing Officer concludes that the testimony and/or exhibits presented at the hearing shows by a preponderance of the evidence that someone other than the person named in the Notice of Liability was operating the vehicle at the time of the violation, the Hearing Officer shall forward to the Chief of Police or his or her designee all evidence provided to him or her at the hearing as to the operator's identity and order the return of the deposit provided in accordance with 313.035(d)(2)(A) to the person who appealed.**

**F. Within ten (10) business days of receiving the evidence referred to in subsection (E) of this section, the Police Department or its designee may issue a Notice of Liability to the person whom the evidence indicates was operating the vehicle at the time of the violation.**

**G. If the hearing Officer determines that the City has demonstrated by a preponderance of the evidence that the person named in the Notice of Liability committed the violation, the Hearing Officer shall enter judgment against the person and the monetary deposit filed in accordance with Section 313.035(d)(2)(A) shall be forfeited to the City of Parma as satisfaction for the administrative fine set forth in Section 313.035(c)(5).**

**H. If the Hearing Officer does not determine by a preponderance of the evidence that the person named in the Notice of Liability committed the violation, the Hearing Officer shall enter judgment against the City of Parma, shall dismiss the notice of Liability against the person, and shall order the return of the deposit provided in accordance with Section 313.035(d)(2)(A) to the person who appealed."**

Section 2. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 3. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety, and welfare of the City of Parma, and for the further reason that this measure is necessary in to enact this section in the Parma Codified Ordinances in the near future, and this Ordinance shall become immediately effective upon receiving the affirmative vote of two-thirds of all members elected to Council and approval of the Mayor, otherwise from and after the earliest period allowed by law.

PASSED:_____	_____
	PRESIDENT OF COUNCIL
ATTEST:_____	APPROVED:_____
CLERK OF COUNCIL	
FILED WITH THE MAYOR:_____	_____
	MAYOR, CITY OF PARMA, OHIO